

IN SENATE OF THE UNITED STATES.

APRIL 18, 1848.

Submitted, and ordered to be printed.

Mr. FELCH made the following

REPORT :

[To accompany bill S. No. 225.]

The Committee on Public Lands, to whom was referred the Petition of Thomas C. Sheldon, late receiver of public moneys at Kalamazoo, in the State of Michigan, respectfully report:

The petitioner was receiver of public moneys, at Kalamazoo, in the State of Michigan, and he asks for the reimbursement of expenses advanced by him for extra clerk hire, in the sales of public lands in that district, in the years 1835, 1836, and 1837. The amounts of money received by him on such sales during those years were as follows:

In 1835	\$932,076 64
" 1836	2,043,866 87
" 1837	394,291 77

The labor in the receiver's office, in consequence of sales to such an unprecedented amount, was much enhanced, and necessarily required much extra aid of clerks in order to accommodate the applicants for purchases.

The receiver's compensation consists, under provisions of law, of a salary of \$500 per annum and a commission of one per cent. on money received and accounted for by him, with the limitation that the aggregate sum of these allowances shall not exceed \$3,000 for any one year. In order to obtain the maximum of compensation, including the salary of \$500, sales of land to the amount of \$250,000 must be made in each year. This law was approved April 18, 1818, and at that time the amount therein specified was so large, compared with previous sales of public lands, that no one could have anticipated that a larger sum would ever be received at any office for the sales of a single year. The limitation upon his receipts was evidently founded upon the presumption, that his expenses and labor would not be required beyond that which was necessary in disposing of lands to the amount of \$250,000 in any one year. If sales were made to a greater amount, it is evident

that additional clerks would be needed to perform the duty, and if the receiver was compelled to pay the extra clerk hire, his salary would be diminished by the amount so paid. This would present the anomaly of a salary increased in proportion to the labor and expense of the office to a given maximum, but diminished in proportion to the labor and expense above it. Thus, if the sales amounted in a given year to \$250,000 the receiver's salary would be \$3,000; if the sales were doubled and extra clerk hire to the amount of \$1,500 were required to do the additional business, the receiver's compensation would be reduced by one-half.

It was early determined at the Treasury Department that the maximum compensation could not be justly imposed, when and because the money received and accounted for on sales of public lands had exceeded the sum of \$250,000, and it was long the practice to allow, at the accounting office, a credit of the amount actually paid by the receiver and register, for clerk hire, in making sales above that amount. The claim of the petitioner was presented for like allowance, but being the first of its class that had been brought before the present Secretary of the Treasury, he referred the matter to the Attorney General for his opinion. That officer, in a written opinion, dated March 13, 1846, declared that "the allowance, within reasonable limits, of actual expenses incurred in procuring the services of necessary clerks, may be just and proper, but it is for the legislative department to determine whether the discretion shall be given to the executive. In my opinion such discretion has not been conferred by existing laws."

Under the construction given to the law at the department, before the opinion of the Attorney General was submitted, the following credits, of a character similar to the claim of petitioner, had been allowed:

John Findley	\$628 30
Thomas A. Smith.....	1,981 05
Tuston Quarles	206 00
John Taylor (two years).....	2,799 75
Charles C. Haskell	874 20
J. M. Lemmon	289 00
D. B. Miller (two years).....	1,350 00

After the opinion of the Attorney General was submitted, the claim of John Spencer, late receiver of public moneys, at Fort Wayne, Indiana, being rejected by the accounting officers, was presented to Congress, and under an act authorising the settlement of his accounts upon equitable terms, the credit was subsequently given to him.

The receipts at the office at Kalamazoo exceeded \$250,000 during the year

1835, by	\$682,076 64
1836, by	1,794,161 87
1837, by	144,309 77

Making, in the three years, an aggregate of... 2,620,243 28

Over \$250,000 per annum; for the expense attending which no remuneration has been received.

The amount claimed by the petitioner, as paid by him for extra clerk hire, is \$4,931. The vouchers for these payments were examined by the Commissioner of the General Land Office, in 1846, and, after making deductions for items not sufficiently proved, he found the sum of \$4,156 substantiated by the evidence, and recommended the allowance of that amount to the petitioner.

The justice of the claim of the petitioner is apparent to the committee, and a bill is herewith accordingly reported, providing for the settlement of his accounts with the proper accounting officers of the Treasury Department, upon principles of equity and justice.

